

**BUTTE-SILVER BOW LOCAL GOVERNMENT
STUDY COMMISSION**

**Minutes of the Meeting
January 19, 2006
Butte-Silver Bow Courthouse, First Floor Conference Room**

Meeting Date: January 19, 2006

Time: 5:30 p.m.

Place: Butte-Silver Bow Courthouse, First Floor Conference Room

Call to Order: Chairman Bob Worley brought the meeting to order at 5:35 p.m. and called roll with the following results:

Members Present: Tony Bonney, Ristene Hall, Wayne Harper, Dave Palmer, Meg Sharp, Cindi Shaw, Northey Tretheway, Bob Worley, Shag Miller and Ron Rowling

Excused Absences:

Approval of Minutes: Minutes from January 12, 2006 were approved with corrections. Wayne Harper moved for the minutes from January 12, 2006 to be approved and Meg Sharp seconded. The motion carried unanimously.

Bob Worley informed everyone that new transcription machine was purchased costing \$229.00.

Comments from Ron Rowling: Ron had no comments.

Items not on agenda: Bob Worley mentioned that Jennifer Rozinka collected information regarding the hiring and firing process of police officers.

Bob Worley commented on Tuesday, January 17, 2006, he, Wayne Harper and Meg Sharp visited with Don Robinson regarding "at will" employment. Their mission was to get a decision on Section 4.02 (d) and also on an employment picture. Bob Worley had Wayne Harper give an update on their meeting.

Wayne Harper commented that Don Robinson was very open and receptive to the discussion. Wayne Harper mentioned Section 4.02 (d) being the main issue but they went one step further and wanted to know the options. They asked Don Robinson under "at will" law to give under employment law if it was possible to still appoint department heads or moving a department head, bringing your own in and things of that nature. They also asked him to look at the ability to bring in four-year contracted employees. Wayne Harper was not clear on Bob McCarthy's position regarding that. He and Don Robinson were in agreement that you could do that. Wayne thought as a board they would need to debate. Wayne Harper believed that Don Robinson thought they wanted that. Wayne Harper told him to make that one of the options. Wayne explained to Don Robinson, as a board, they have not voted on whether it is in the best interest of BSB. Should this work it way down the road, you would have to grandfather the current department heads. Wayne Harper and Don Robinson thought that was the answer but Don Robinson will further research it to find out if they do. Wayne Harper stated they could buy in and agree to that if it went there or they could say they would take a contract and stay with Paul Babb. Wayne Harper stated two issues came up for them. What kind of employees are you going to get for local government when it is a four-year job and second institutional knowledge would becomes an issue. They asked Don Robinson if you could do it at all with today's law, with the way the charter is, and if

you could do it with employment contracts, which Bob McCarthy does not believe you can. Wayne Harper and Don Robinson believed you could. Wayne Harper promised Don he would send him Judge Ostby's decision and his language he proposed on November 7, 2005. Wayne had sent both of those items. They recommended Don Robinson speak with Tim Clark. Don Robinson agreed on general issues that he would be working into his presentation. Don Robinson had the minutes and had a good feel on what the Study Commission wanted. Don Robinson seemed to think on some of the other issues discussed that there might be some other employment things. He suggested that these issues be done by ordinance not by charter. Wayne Harper stated that Don Robinson believed there is a personnel policy in place and that it might just need to be followed more on general employment. Don Robinson was upset with the thought process on Bob McCarthy having two clerical staff that can be hired and fired by the Chief Executive. Wayne Harper stated that Don Robinson should have his written opinion to them by the next meeting.

Bob Worley commented that he Don Robinson was not working pro-bono on this and was getting paid.

Ristene Hall disagreed with the opinion on the quality of work you would get with a contracted employee. Ristene Hall commented that if a contracted employee did a good job they could have a career job. Ristene Hall stated it is no more a gamble than any other job you take. Ristene Hall believed you could still get good people in those departments even though they would be contracted.

Bob Worley replied that Don Robinson addressed if the Chief Executive was re-elected, it would come under a four-year contract. If the Chief Executive wished to extend or renew the contract it could not be done.

Wayne Harper replied you would write an Evergreen in there so it would basically repeat itself if nobody states that person's four year contract is up.

Meg Sharp commented Don Robinson suggested a 90 to 60-day period for a new Chief Executive to work with the person. At the end of the 60 days if he felt couldn't do the job that person would get 30-days notice.

Wayne Harper commented you are not going to see a lot of people who are already working go to something that may only be for four years under a contract. Wayne Harper commented most people are going to want to finish his/her career where they got hired. Wayne stated under a service contract and it happens all the time in state government, you would see that it was Governor Sweitzer's third or fourth pick getting the job.

Ristene Hall replied that she still disagrees. She stated the quality of life here is worth taking a contracted position than having to move out of town to find work.

Bob Worley stated they should have Don Robinson's report by Friday. Bob stated he would try and get a copy to them before next week's meeting.

Bob Worley mentioned the members from the 1995-96 Study Commission would like to be invited to attend one of their meetings. Bob Worley visited with Mary McMahan and she thought it has to go by resolution to the Council of Commissioners. It would have to be returned to her, complete, by March 23, 2006. Bob Worley suggested before putting everything together and get it out to the people, that they should have another public hearing. Bob Worley stated they need to

get something in regard to the draft changes out to the people and asked for ideas on how they should deliver it.

Meg Sharp asked if it needed to go before the entire population of BSB or does it specify only to register voters?

Bob Worley was not sure. Bob Worley commented if the entire population received it, maybe it would cause people to register that have not yet done so. On the other hand, they also need to watch their costs.

Meg Sharp suggested depending on the quantity of written material, that they design a brochure on quality paper that people will not want to just throw away, mail it direct under non-profit status and also have it published in the newspaper.

Bob Worley suggested if they got the proper amount of households in the county and had Butte-High or Central, which have civic clubs that could help distribute it door-to-door.

Cindi Shaw asked if there was a list they could of registered voters from Mary McMahon? Cindi Shaw suggested they target the voters.

Ron Rowling asked why they could not go to the post office and ask the postmaster if he/she would put it with every carrier.

Meg Sharp replied they would have to pay bulk rate and everything has to be separated by zip code.

Ron Rowling replied not if it was going in everyone's mailbox and what Meg stated only applied if it were going to certain routes.

Bob Worley replied he has no problem with that.

Ristene Hall suggested two things. She knew the Clerk and Recorder have information that is broke down by households of registered voters or they could advertise that it could be viewed online.

Wayne Harper stated by law, under 73-187, you have to have it in the courthouse with sufficient copies and that is all they have to do. The rest is up to them on how they want to market it. Wayne further stated that it would have to be filed at the state library.

Northey Tretheway replied that was a good point and suggested they put it in multiple locations and list it in the newspaper informing people of those locations.

Cindi Shaw suggested they might be able to get a free spot on the local television news station.

Bob Worley replied that they would probably want to do another focus show. Bob Worley mentioned the down side to is it is done at 9 a.m. on Sunday.

Wayne Harper commented 90% or more would not come and get a copy. If they mail it, at least 50% or more would read it.

Northey Tretheway suggested they put it in grocery stores.

Northey Tretheway asked how was it done in the past?

Shag Miller suggested they have plenty of money to put towards the campaign. He knows a guy from town that runs an advertising agency. They need to devise a plan, mail everyone a copy, tie in newspaper ads, television, and radio. Run the advertising so it will be focused on three weeks before the primary in June.

Northey Tretheway asked Shag if he suggested on having the whole charter mailed? Shag replied yes and having the key changes in the charter underlined.

Bob Worley again mentioned that Mary McMahon has to have their finished product by March 23, 2006. Bob Worley thought they should take a draft of the corrected charter to the public meeting so they can see how it is accepted. They could then get a final proposal out to the people. Bob Worley wanted to know how they should get the draft proposal to the public without doing a whole lot of extra printing costs.

Shag Miller suggested taking the draft to the public meeting and then send it to the people.

Northey Tretheway replied they might get some feedback that would cause them to change some things.

Bob Worley replied the only thing is he wanted to get the changes out to the people so they could review those before coming to the public hearing.

Meg Sharp replied she would do that by having the final draft printed and available as the public comes in for the public hearing or they could come ahead of time and pick up a copy at the courthouse.

Dave Palmer reminded Shag that they would need to have both the simplified charter and the corrected existing charter printed.

Northey Tretheway commented that is the beauty with a simplified charter. Charters from other communities are not as complex as Butte-Silver Bow's and asked if they are helping or hurting themselves by having a lot of detail items in the charter that require a vote from the people to change? On the other hand should it be more flexible and done by ordinance so you do not have to wait 10 years or go through a lawsuit for something to be changed? Northey Tretheway stated currently the charter is a document that governs when it should just guide.

Dave Palmer thought they should discuss a timeline of what is going to be done before deciding what delivery methods are going to be done.

Northey Tretheway gave an example of a timeline according to Ken Weaver's book.

Meg Sharp suggested they have the public hearing around the 23rd of February.

Northey Tretheway stated it says to adopt a final report not later than 75 days. It does not say anything about getting it on the ballot. Northey Tretheway asked if there was some legal constraint where Mary McMahon says you have to have it 75 days prior?

Dave Palmer replied yes and that there is a certain timeline.

Northey Tretheway again read that it states, adopt final report no later than 75 days prior to the election.

Bob Worley thought he should contact Ken Weaver to have that clarified. Bob Worley did not know how they could write a final report prior to the electorates accepting or rejecting.

Bob Worley contacted Mike Kerns to get confirmation on the resolution needing to be approved by the council prior to it going on the ballot.

Northey Tretheway asked if it was an ordinance or state law that required that?

Bob Worley commented the final report they need to write as a commission comes after the election. Bob Worley asked if there were two final reports, one after the people chosen or not chosen their recommendations and one that stated an implementation plan?

Tony Bonney and Cindi Shaw requested the meeting be held on the 21st of February since they would not be available the 23rd.

Bob Worley asked Mike Kerns on the phone if they need to have recommended draft to the council in the form of a resolution and be read and then acted upon two weeks later? Mike Kerns did not know but thought Mary was inaccurate and that they did not need to do it by resolution. They were elected to do a job and that was to review the charter. Mike Kerns did not think the council had anything to do with it. Bob Worley stated he would still like to have the council's approval. Bob Worley suggested they get a rough draft together and have the council meet with them.

Northey Tretheway suggested that Bob McCarthy write down what the process is as far as getting it on the ballot. They would then have documentation in case any questions arise.

Bob Worley stated they would have a decision by the next meeting on Section 4.02 d and on employees in regard to who they are working for.

Bob Worley moved forward with the County Superintendent of Schools issue. Bob Worley stated there might be certain requirements if they try to combine that position with another elected official or executive officer. Bob Worley stated they are going to run into a real problem trying to eliminate the County Superintendent of Schools.

Bob Worley referred to MCA 20-3-201.

Bob Worley read from a letter Mary McMahon wrote regarding the Superintendent of Schools issue.

Bob Worley commented that he believed Ed Heard still had to sign off on the budget for School District 1 and approve certificates for teachers teaching within the school district. As far as anything else, his major thing is Melrose, Ramsay, Divide and home schooled.

Bob Worley commented School District 1 would not have the ability to appoint a Superintendent of Schools; he or she would be elected by the county.

Northey Tretheway commented that there seems to be a lot of emotional issues that go along with what goes on in our schools and that person is not directly accountable to the school commission. The one who is elected by the entire county is only accountable to a fraction...

End of tape 1, Side 1

Bob Worley believed Montana Code had answered that. Bob Worley did not know how they get the School District 1 and the Superintendent of Schools into a combination office. Bob Worley stated the only thing they could do is School District 1 eliminate that position and allow that to be a County Superintendent.

Northey Tretheway commented there is nothing about the Superintendent of Schools District 1. Northey Tretheway commented that was kind of amazing because of all the elaboration that took place in 1970's to consolidate government, why did that one escape?

Bob Worley state he is not sure how they would pursue the consolidation of the Superintendent of Schools and mentioned that Chuck Uggetti just received a two-year contract for around \$81,000.

Dave Palmer asked if there was a state law that says if a school district is over a certain number of people, it has to have a Superintendent.

Bob Worley asked if they wanted to keep the Superintendent issue open for discussion.

Shag Miller replied that he would like to discuss it with Bob McCarthy.

Meg Sharp asked if the School Districts within the county that the elected Superintendent of Schools is in charge of, could that all be rolled into School District 1?

Bob Worley replied that they have discussed this and that is where they find their autonomy. Bob Worley stated that he had a chance to meet with a guy out of Melrose and he was wondering why that had not been done. Bob Worley thought the big one that would really give them problems is Ramsay.

Shag Miller commented that Bob McCarthy mentioned this tax increment district...if the Superintendent of Schools was eliminated, there is county money that goes to the Superintendent of Schools that would roll into School District 1. They would pick up the money and it would add to their budget.

Bob Worley thought it was something they should address with Bob McCarthy.

Shag Miller asked if there were 500 school districts in Montana? Bob Worley replied that there were 576.

Bob Worley moved forward with the Auditor, the next item they had under executive officers. Bob Worley read from page 99 on the Auditor's position. Bob Worley commented that what they have been discussing was item 4, shall be selected as provided by ordinance. Bob Worley stated that he spent time with Dick Tamblyn of Newland and Company on the Auditor position. It came up today when he visited with Mary McMahan. She stated that they would still need to have an outside audit done. Dick Tamblyn told him if they had a qualified Auditor in BSB, they could do a better job for BSB and not have to spend the time going through everything they go through right now. Bob Worley commented that they not only audit monies but also departments. Bob Worley stated they found one of these things in Section 10 that they are not doing by charter in

BSB. That was procurement and central purchasing. This is one of the things an Auditor could probably pull out and maybe require since it is in the charter. Bob Worley stated there are a lot of problems within the courthouse. One was the IT department and nobody has control on the hardware or the type of software to pull everything together. Bob Worley thought that was something that needed to be done in the county so it would operate more efficiently.

Bob Worley stated there are no qualifications at the state level for an Auditor.

Cindi Shaw added there is also no job description for the Auditor.

Shag Miller replied there are also no job descriptions for the Treasure or the Sheriff.

Cindi Shaw asked how do you know what the qualifications are if there is no job description?

Shag Miller stated if they put it in ordinance, they could hire an Auditor.

Northey Tretheway replied if you write in qualifications where normally someone with those qualifications could get paid \$65,000 to \$75,000 a year and you have an appointment of someone with those qualifications, you could have a difficult time filling that position.

Bob Worley replied when he visited with Dick Tamblyn, he believed they could hire an Auditor for \$40,000 to \$50,000.

Northey Tretheway asked what the current Auditor makes. It was believed that she made around \$35,000.

Bob Worley believed there were some smaller counties that did not have Auditors.

Bob Worley clarified where they are is to appoint or contract an Auditor with qualifications. Bob Worley mentioned if it went to the point where they end up with department heads, it would probably be done under contract. Bob Worley stated it is going to be up to them to say which department heads will work under contract such as, Public Works, Civic Center, Water and Budget and Finance or do they even want to get into that. It would have to be structured if they were going to go through with that.

Bob Worley mentioned there is a clause that goes into those contracts that Wayne Harper mentioned, called an Evergreen Clause. There is a 90-day process at the end of a term, 60-days to see if you get along with the new person or you have 30-days to terminate him/her.

Ristene Hall thought it all sounded good and if they present it to the people to note the fact that it could reduce the number of lawsuits. She thought the people would vote on it.

Tony Bonney agreed.

Tony Bonney made a motion to retain the Auditor position as a non-elected position with qualifications.

Ristene Hall replied on that motion that would be one area that people would vote on. They do not want to lose their power to elect.

Meg Sharp replied if they only present things that they think the people will vote for, they would not be doing their job. They need to do what is best for the government.

Tony Bonney stressed that they need to educate the public and tell them why they are suggesting it be done.

Northey Tretheway commented they could not be a salesman of what they are trying to change.

Bob Worley stated they could state the advantages and disadvantages.

Cindi Shaw commented they are not eliminating a job; they are just putting qualifications on it. It would be a better person for the job. Cindi asked if Dannette would have to go through the same employer process that someone else would. Would it go out on contract like the Civic Center job? She did not know how that would work for an existing Auditor.

Meg Sharp replied the transition might not be made until Dannette leaves office or the next election.

Tony Bonney replied if the people vote on that, it would not take effect until Dannette's term is up. The qualifications would be set by the Council of Commissioners.

Dave Palmer asked with an appointed Auditor, whom do they answer to? As an elected position, they really do not answer to anyone but the voters on the next election. If you are under the Council of Commissioners, he/she would have to answer to them if he/she did something wrong or were not doing his/her job.

Dave Palmer stated he would like to see it stay elected for that reason.

Meg Sharp commented that they suggest to the Council of Commissioners, by ordinance, she could have additional duties such as auditing departments and seeing that provisions in the charter are being fulfilled like procurement and purchasing.

Dave Palmer believed it was the Chief Executive that would oversee the provisions of the charter.

Tony Bonney commented as an elected official, the Council of Commissioners could not give directives to officials.

Ristene Hall asked Dave if the Deputy that the Auditor used to have that retired, do they still budget for that department or not?

Dave Palmer replied they do not.

Cindi Shaw commented that our current Auditor probably has the requirements of doing what an Auditor does but most of her duties were taken away.

Bob Worley read information provided by Dick Tamblyn on Missoula's Auditor.

Dave Palmer stated he agrees that the Auditor oversees all of the claims.

Bob Worley commented that is one way he sees controls coming into the county with Section 10.06 ordinance where they have procurement and central purchasing. The Auditor would probably work directly with that.

Ristene Hall stated she suggested procurement and central purchasing the first month she was on council but was told they tried those months ago and it does not work. Ristene Hall stated for example, look at a department that bought a couple boxes of copier paper and another department bought boxes of copier paper and so forth, how many boxes of copier paper are sitting in closets? The money could be sitting in the bank and there could be copier paper in a centralized area.

Ristene Hall commented there were no bids put out to businesses in the area for office supplies. Ristene Hall further commented if one looked at the money spent on contracted maintenance work on equipment maintenance, there could probably be a hired person within the county that could maintain all the equipment.

Bob Worley brought to everyone's attention Tony's motion and asked if there was a second. The motion did not carry due to lack of a second.

Tony Bonney asked what they could do to have the current Auditor get back some of her power?

Ristene Hall asked who writes job descriptions. There was a response that the Personnel Department does.

Dave Palmer thought they could add a Section 7.08.

Bob Worley stated he has a request to Dick Tamblyn on how to write a job description for an Auditor.

Tony Bonney replied that the motion died and qualifications could not be placed on an elected official. Tony stated you could put qualifications on the help the he/she hires.

Bob Worley replied that is all done by the state. The state says what they can do as far as electing an Auditor but if there are no job specifications or job description at the state level, they could not do it at the county level as an elected position.

Ristene Hall replied she would then like to keep the elected Auditor but with appointed deputies and write job descriptions for the deputies. Then the Auditor would oversee that.

Tony Bonney stated if they wrote it in Section 7.08 they could put that she is in charge of central purchasing and auditing the records. She would have the ability to appoint her own deputy and any employees after that would have to be hired per qualifications from the Human Resources Department of BSB.

Bob Worley wanted to remind everyone that they are trying to simplify the charter.

Ristene Hall state the only reason she did not second is because she wanted to see it remain an elected position.

Tony Bonney stated he would be willing to restate his motion to keep the Auditor as an elected official but to add a Section 7.08 in the charter that would describe the duties, functions and abilities of the appointed deputy.

Bob Worley stated he might be limiting things as far as the pay scale of that person.

Shag Miller asked if the state has a definition of the duties of the Auditor?

Dave Palmer suggested instead of Section 7.08 since it is elected and not an administrative department to make it Section 5.06.

Bob Worley commented he knows the Council of Commissioners is going to have the authority to approve or disapprove the job through budgeting. If the money is not there, you're not going to hire the person.

Dave Palmer replied if the charter states it is necessary to be there then they have to come up with the money.

Bob Worley commented if they had Dannette Harrington in this room tonight and asked if she budgeted for a deputy, she would tell you yes.

Tony Bonney stated Dannette Harrington has no clear job duties.

Northey Tretheway commented that ordinances are more efficient in dealing with this because you could then write out what you want to have done and what qualifications are needed to get that done.

Ristene Hall asked if it was possible to find an ordinance from the past when there was Chief Deputy in the Auditor's Office and what his/her qualifications and duties were?

Bob Worley asked Ron Rowling if he could find that out.

Northey Tretheway believed they did need to have a final report done approximately 75 days prior to the election. They have to adopt a final reporting and if some of them do not agree with the final report then there is a minority report that goes with it. Then they will need to publish a summary of findings and recommendations. Once each week per two successive weeks. They will need to file two copies of the final report.

End of Tape 1, Side 2

Northey Tretheway commented the final report has to have a certificate of that date.

Bob Worley replied after the final report, they need to have it available to the public 30 days before the election.

Northey Tretheway read that sufficient copies of the final report must be prepared for public distribution...the final report must be available to the electorate not later than 30 days prior to the election on the issue of adopting the alternative plan.

Bob Worley entertained a motion to adjourn.

Date of Next Meeting: January 26, 2006.

Adjournment: Dave Palmer moved for adjournment and Meg Sharp seconded. The motion carried and the meeting adjourned at 7:45 p.m.